UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1996/NGO/72
28 March 1996

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-second session
Item 20 of the provisional agenda

RIGHTS OF THE CHILD

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[27 March 1996]

1. The International Federation of Human Rights (FIDH) has followed the work of the Committee on the Rights of the Child closely. The organization remains concerned about a number of countries which, despite signing the Convention on the Rights of the Child, fall short of their obligations under the treaty. A particular concern is the significant gap between laws adopted to implement the Convention and the practical application of those laws to the actual situation of children.

2. This major issue is reflected in particular by the situation of children in Pakistan, in Colombia - which was taken up by the Committee on the Rights of the Child in January 1995 - and in China, the initial report of which will be considered in May 1996.

GE.96-11939 (E)

3. FIDH welcomes the enactment of laws and regulations to protect children in these countries, including Pakistan's Bonded Labour (Abolition) Act (1992), Colombia's Code for Minors (1990), and China's Protection of Minors Act (1991) and Law on the Protection of Women's Rights and Interests (1992).

4. However, despite detailing the provisions of these laws and providing a few selective statistics, China's and Colombia's reports fail to live up to the Convention's requirements listed in article 44. Reports are lacking in information about how the laws and regulations are enforced. They also skip over some of the serious deficiencies which exist in the protection of the rights of children, in particular the problems of trafficking, child abuse, arbitrary detention of juveniles, the growing use of child labour and the serious imbalances in sex ratios at birth.

5. Restrictions on what can be reported in the Chinese domestic media, such as prohibitions on "negative" news, as well as controls on individual freedom of expression and association mean that there is little independent monitoring of children's rights. Likewise, in its concluding observations on Colombia, the Committee strongly advised the Government to "enlist the support of NGOs and other private organizations in raising public awareness of the rights of the child and in monitoring enforcement of the laws".

Implementation of laws and regulations

6. In Pakistan, according to the Human Rights Commission of Pakistan "despite the Bonded Labour (Abolition) Act of 1992, forced labour continues to be practised on a wide scale ... The size of it was estimated in the region of 20 million". In rural carpet-weaving centres, the majority of bonded workers are children. Despite national laws banning bonded labour and pledges to end all forms of child labour, the Government of Pakistan aggressively promotes the export of rugs made by such workers. Furthermore, it consistently fails to prosecute parents or other individuals involved in holding children in bondage.

7. In China, protective laws, such as the 1991 Protection of Minors Act, depend primarily on administrative measures for their implementation, without providing harmed individuals with direct legal remedies. Secondly, laws and regulations subject to administrative enforcement are widely ignored by official bodies. Finally, even violations of the Criminal Law may not be pursued if this is not seen as being in the interests of the Party, the State or individual officials. For example, in certain areas courts have been ordered not to accept cases involving violations of rights related to the population control policies.

8. The absence of a truly impartial judiciary makes monitoring of law enforcement virtually impossible. In China, existing supervisory systems, particularly the procuracy, are interconnected with the political authorities and thus do not exercise these functions in a proper manner. Likewise, Colombia and Pakistan lack effective mechanisms to monitor law enforcement. Therefore the gap between law and practice remains unacceptably wide.

Juvenile justice

9. Although some safeguards for the treatment of juvenile suspects and offenders have been enacted - the Protection of Minors' Act (1991) in China, and the Code for Minors (1990) in Colombia - most are overly vague, provide insufficient protection or are not translated into action. In Colombia, the Government failed to provide the necessary facilities and funding to implement the Code for Minors.

10. Many articles of the Chinese Criminal Procedure Law do not make any special provisions for juveniles. As for adult detainees, family notification is required when juveniles are detained, but no provisions grant access to minors by parents during their pretrial detention, in violation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). According to the Criminal Procedure Law, defendants are still only allowed access to lawyers when a trial date has been set, a minimum of one week before the trial opens, despite a long campaign by Chinese legal experts to allow earlier access.

11. Under Re-education Through Labour, juveniles aged 16 to 18 may be held for up to four years together with adults for "crimes" not subject to prosecution. Re-education Through Labour has been judged by the Working Group on Arbitrary Detention to be "inherently arbitrary".

12. Juveniles are also subject to various forms of arbitrary detention, at the discretion of the Public Security Bureau police, despite the statement in China's report that only those convicted by a court are admitted to "juvenile correctional facilities".

Discrimination

13. As China's report makes clear, discrimination on the grounds of sex and disability are legally prohibited, in particular by the Law on the Protection of Women's Rights and Interests, the Protection of the Disabled Act, and the Protection of Minors Act. However, legal provisions on discrimination are not enforced. Discrimination against girl children is a problem based in social and cultural attitudes, but is exacerbated by the Government's "one-child" policy. These factors have resulted in seriously skewed male-female sex ratios at birth. Human rights groups estimate that over half a million girl children are "missing" every year as a result of sex-selective abortion, infanticide, death through neglect, abandonment and non-registration. Although China's report mentions infanticide and abandonment, it does not give any estimation of their extent.

14. Children of families who have "out of plan" births are subject to discriminatory treatment. They may not be given a "residence registration" (hukou), without which they are not eligible for free education, health benefits and other subsidies. Without this registration such children do not have a legal identity, as required by the Convention on the Rights of the Child. China's report does not mention this issue.

Survival and health

15. Reports of very late-term abortions performed in execution of China's population policies continue to reach FIDH. In some cases, such abortions constitute an officially-sanctioned form of infanticide. Most provincial laws and regulations on the population policy do not place any time limits for abortions, and no national law or regulation containing such limits has been enacted. According to information provided to FIDH, children born alive as a result of such abortions have been killed by medical personnel after birth.

16. In Colombia the Committee recommended that firm measures be taken "to ensure the right to survival", in order to protect children against "violence, disappearance, assassination or alleged organ trafficking". Part of these violent acts are performed by the Colombian authorities. As a result of what is known as "social cleansing", hundreds of street children are murdered every year by criminal groups.

17. In Pakistan, around 75 per cent of child workers in the carpet-weaving industry suffer from work-related diseases; 70 per cent acknowledge having been beaten by either their parents or their employers. Sexual assaults are common. Many of these children suffer from retardation of mental and physical growth. Furthermore, there are cases of children being used for the transportation of food, fuel and even rugs, across the Afghan border. Instances of young children forcibly sent to wage "jihad" in Kashmere are reported each year.

Trafficking

18. In Pakistan, although children are usually sold into bondage by their parents, often as a result of indebtment, in certain cases bonded children are abducted by contractors or employers.

19. Trafficking in women and children has grown substantially in China since the late 1970s. Although officials claimed to have diminished the trade, every year tens of thousands of girls and women are trafficked to be sold either as wives or into prostitution, while children (primarily infants) are trafficked to be sold as "adopted children".

20. FIDH contends that passing laws and regulations to protect children is not sufficient: implementation of the Convention requires that they be enforced. FIDH has consistently called for full implementation of existing laws and regulations as a first step towards proper protection of human rights. FIDH urges the Commission to examine the situation of arbitrary detention of juveniles, child trafficking, child labour and child abuse resulting from population control policies in all countries where these abuses are reported, and to impress on States that the protection of the rights of the child requires the enforcement, as well as the passage, of laws.